



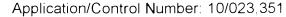


UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address NAMISSS NER FOR PATENTS PORTON STIGMA 22313 1450 Www.upfn.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10 023,351	12.17.2001	Andrea M. Lever	P02452	2831
23702	7590 06 26 2003			
Bausch & Lomb Incorporated			EXAMINER	
One Bausch & Rochester, NY			AZPURU, CARLOS A	
			ART UNIT	PAPER NUMBER
			1615	
			DATE MAILED: 06/26/2003	,

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)	Applicant(s)				
•	•	10/023,351	LEVER ET AL.					
	Office Action Summary	Examiner	Art Unit					
		Carlos A. Azpuru	1615					
Period fo	The MAILING DATE of this communication or Reply	appears on the cover sheet w	ith the correspondence address					
THE I - Exter after - If the - If NC - Failu - Any r	ORTENED STATUTORY PERIOD FOR REIMAILING DATE OF THIS COMMUNICATION Insigns of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication period for reply specified above is less than thirty (30) days, a period for reply is specified above, the maximum statutory per reto reply within the set or extended period for reply will, by state ply received by the Office later than three months after the mand patent term adjustment. See 37 CFR 1.704(b).	N. 8.1.136(a). In no event, however, may a reply within the statutory minimum of thi iod will apply and will expire SIX (6) MO atute, cause the application to become A	reply be timely filed ty (30) days will be considered timely. ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).					
1)	Responsive to communication(s) filed on _	·						
2a) <u></u> □	This action is FINAL . 2b)⊠	This action is non-final.						
3)								
Dispositi	closed in accordance with the practice und on of Claims	ler <i>Ex parte Quayle</i> , 1935 C	D. 11, 453 O.G. 213.					
•	Claim(s) 1-16 is/are pending in the applicat	tion.						
4a) Of the above claim(s) is/are withdrawn from consideration.								
5) 🖂	∑ Claim(s) <u>1-7 and 9-15</u> is/are allowed.							
6)[6)⊠ Claim(s) <u>8 and 16</u> is/are rejected.							
7)	Claim(s) is/are objected to.							
8)	Claim(s) are subject to restriction and	d/or election requirement.						
Applicati	on Papers							
9) 🗌 🤈	The specification is objected to by the Exam	iner.						
10)	The drawing(s) filed on is/are: a)□ ac	•						
	Applicant may not request that any objection to							
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.								
	If approved, corrected drawings are required in							
	The oath or declaration is objected to by the	Examiner.						
	ınder 35 U.S.C. §§ 119 and 120							
	Acknowledgment is made of a claim for fore	eign priority under 35 U.S.C.	§ 119(a)-(d) or (f).					
a)[☐ All b)☐ Some * c)☐ None of:							
	1. Certified copies of the priority docume							
	2. Certified copies of the priority docume	ents have been received in A	application No					
* S	 Copies of the certified copies of the p application from the International see the attached detailed Office action for a I 	Bureau (PCT Rule 17.2(a)).	-					
	cknowledgment is made of a claim for dome	•		,				
a)	☐ The translation of the foreign language	provisional application has b	een received.	,.				
	Acknowledgment is made of a claim for dome	estic priority under 35 U.S.C	§§ 120 and/or 121.					
Attachment		" 🗖						
2) Notice	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(s	5) Notice of	Summary (PTO-413) Paper No(s) Informal Patent Application (PTO-152)					



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DETAILED ACTION

Receipt is acknowledged of the information disclosure statement filed 01/16/03.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 16 are indefinite in that they refer to a "sustained release form of the retinoid." Since the retinoid does not determine the release profile, but rather depends upon its formulation, it is suggested applicant amend the claims to particularly point out that the composition being claimed is in sustained release form. Correction is requested.

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Claims 1-7, and 9-15 are allowed. Amendment of claims 8 and 16 as indicated above would place all the claims in condition for allowance. Addition of an information disclosure statement containing the references listed at page 13 of the specification would place the application in condition for allowance.

Patents to Ushio et al and Park et al are cited as the closest prior art in their disclosure of administering vitamin A compounds to the eye. Neither is directed towards a method directed towards corneal epithelia, its integrity or health.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is 703/308-0237. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

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June 24, 2003

CARLOS A. AZPURD PRIMARY EXAMINER GROUP 1500